



U.S. Department of Justice
Drug Enforcement Administration
Office of Diversion Control

Combat Methamphetamine Epidemic Act

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Pre-CMEA Landscape: Key Definitions

- List I chemicals – ephedrine, pseudoephedrine, and phenylpropanolamine
- Regulated transaction – over-the-counter pseudoephedrine and phenylpropanolamine products generally exempt from control if properly packaged

Pre-CMEA Landscape: Importation of Listed Chemicals

- Importation of bulk or finished product containing List I chemical requires prior notification
- Importation automatically permitted unless DEA suspends the shipment within 15 days of notification
- Suspension of shipment gives importer right to administrative hearing

Pre-CMEA Landscape: Registration Requirements

- Importers (unless importing an “exempt chemical mixture)
- Manufacturers
- Distributors
- But not Retail Sellers

Combat Methamphetamine Epidemic Act

- Title VII of USA PATRIOT Improvement and Reauthorization Act of 2005 (Public Law 109-177)
- Purpose: To provide greater controls for methamphetamine precursor chemicals

CMEA: No State Preemption

- “This section and the amendments made by this section may not be construed as having any legal effect on section 708 of the Controlled Substances Act as applied to the regulation of scheduled listed chemicals (as defined in section 102(45) of such Act).”
[CMEA Sec. 711(g)]
- State law is NOT pre-empted.

Key Definitions

- Scheduled listed chemical product – non-prescription drug containing ephedrine, pseudoephedrine, or phenylpropanolamine
- Regulated seller - retail distributor (including pharmacy or mobile retail vendor); does not include employee or agent
- Mobile retail vendor – temporary or moveable stand in fixed facility or on unimproved land leased for retail purposes

Retail Provisions

- Who may sell “scheduled listed chemical products”:
- Regulated sellers
- Mobile retail vendors
- Mail order sellers
- Sellers “self-certify” online re: compliance & training of employees

Point-of-Sale Requirements Effective April 8, 2006

- Daily sales limit 3.6 grams per day per customer
- Nonliquids packaged in blister pack only
 - 2 dosage units / blister

Point-of-sale Requirements

Effective Sept. 30, 2006

- May not sell unless self-certified
- Product placement: behind the counter OR locked cabinet
- Maintain written or electronic logbook
- Buyer presents identification issued by State of Federal Government (e.g., driver's license, passport) or other identification as listed in law
- Seller checks name [but not address or signature]

Mobile Retail Vendor Sales Effective September 30, 2006

- May not sell unless self-certified
- 30-day sales limit 7.5 grams per customer
- Product placement: locked cabinet
- Maintain written or electronic logbook
- Buyer presents identification issued by State of Federal Government (e.g., driver's license, passport) or other identification as listed in law
- Seller checks name [but not address or signature]

Self-Certification

- Regulated sellers and mobile retail vendors must self-certify to DEA that they are in compliance with CMEA
- Self-certification is location specific

Self-Certification

- Seller self-certifies that –
 - Employees have been trained in retail sales regulations
 - 3.6 gram daily sales limit to each customer
 - Mobile retail vendor 7.5 gram 30-day sales limit to each customer
 - Packaging requirements – nonliquids in blister packs
 - Product placement – behind the counter or locked cabinet (locked cabinet for mobile retail vendor)
 - Maintenance of a written or electronic logbook
 - Disclosure of information in logbook

Availability of Self-certification information

- DEA will make database containing records regarding self-certification available to state and local law enforcement agencies
- Certification, NOT registration
- Privacy restrictions on data in logbooks
 - Good faith protection

Logbook provisions

- Maintain written or electronic logbook containing:
 - Product by name
 - Quantity sold
 - Name & address of purchaser
 - Signature of purchaser
 - Date and time of sale

Logbook provisions

- Logbook contains notice of criminal penalties
- Seller retains logbook at least 2 years
- Information in logbook may only be disclosed to state and local law enforcement or for product recall
- Logbook requirement does not apply to purchase of single sales packages containing not more than 60 milligrams pseudoephedrine

Mail-Order Sales

Effective April 8, 2006

- Confirm identity of purchaser prior to shipping
- Daily sales limit 3.6 grams per day per customer
- 30-day sales limit 7.5 grams per customer

Purchaser Restrictions

Effective April 8, 2006

- Unlawful to knowingly or intentionally purchase more than 9 grams over 30 days
 - Not more than 7.5 grams imported by mail or commercial carrier

Import / Export Provisions (Quotas)

- Unlawful to import ephedrine, pseudoephedrine, and phenylpropanolamine except as Attorney General finds to be necessary to provide for medical, scientific, or other legitimate purposes
 - Similar authority as for crude opium, poppy straw, concentrate of poppy straw, and coca leaves
- DEA will conduct assessment of “medical, scientific, and other legitimate purposes” for ephedrine, pseudoephedrine, and phenylpropanolamine
- Establish import and manufacturing quotas based on that assessment

“Spot Market” Provisions

- Import/export notification must include information regarding “transferee”
- “Transferee” is a person to whom the United States importer or exporter transfers any List I or List II chemical
- Importer/Exporter must notify DEA of the name of the person to whom the chemical will be transferred and the quantity to be transferred

“Spot Market” Provisions

- DEA must grant “regular customer” status to transferees of United States importers
- If pre-declared transaction falls through, orders are treated as new imports / exports
- Importer/Exporter must provide information regarding transaction within 30 days of completion

Questions?